

## Environmental Protection Agency

## § 66.3

APPENDIX A TO PART 66—TECHNICAL SUPPORT DOCUMENT [NOTE]

APPENDIX B TO PART 66—INSTRUCTION MANUAL [NOTE]

APPENDIX C TO PART 66—COMPUTER PROGRAM [NOTE]

AUTHORITY: Sec. 120, Clean Air Act, as amended, 42 U.S.C. 7420.

SOURCE: 45 FR 50110, July 28, 1980, unless otherwise noted.

### Subpart A—Purpose and Scope

#### § 66.1 Applicability and effective date.

(a) This part applies to all proceedings for the assessment by EPA of a noncompliance penalty as provided by section 120 of the Clean Air Act. This penalty is designed to recover the economic advantage which might otherwise accrue to a source by reason of its failure to comply with air pollution control standards after receipt of a notice of noncompliance.

(b) These regulations shall be effective October 27, 1980.

#### § 66.2 Program description.

This part sets forth the procedures by which EPA will administer the noncompliance penalty provisions of section 120 of the Clean Air Act. Subpart A describes the scope of the part, defines key terms and states the manner of operation of these provisions subpart B states which sources of air pollution are subject to these penalties and the form and substance of the notice of noncompliance. Subpart C and the accompanying Technical Support Document and Manual state how a source must compute the penalty which it owes. Subpart D describes the conditions under which an exemption from the penalty may be available, and subpart E sets forth the procedures for requesting such an exemption. Subpart F states how EPA will review penalties calculated by sources under subpart C, and subpart G describes the method of payment. Subpart H provides for adjustment of the penalty after the source has come into compliance and the actual costs of doing so are known. Finally, subpart I states which actions under these regulations are subject to judicial review and on what conditions, and subpart J provides supplemental procedures for adjudicatory hearings.

#### § 66.3 Definitions.

In this part and part 67:

(a) *Act* means the Clean Air Act, 42 U.S.C. 7401 *et seq.* as amended on August 7, 1977, except where the context specifically indicates otherwise.

(b) *Affiliated entity* means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the owner or operator of a source.

(c) *Applicable legal requirements* means any of the following:

(1) In the case of any major source, any emission limitation, emission standard, or compliance schedule under any EPA-approved State implementation plan (regardless of whether the source is subject to a Federal or State consent decree);

(2) In the case of any source, an emission limitation, emission standard, standard of performance, or other requirement (including, but not limited to, work practice standards) established under section 111 or 112 of the Act;

(3) In the case of a source that is subject to a federal or federally approved state judicial consent decree or EPA approved extension, order, or suspension, any interim emission control requirement or schedule of compliance under that consent decree, extension, order or suspension;

(4) In the case of a nonferrous smelter which has received a primary nonferrous smelter order issued or approved by EPA under Section 119 of the Act, any interim emission control requirement (including a requirement relating to the use of supplemental or intermittent controls) or schedule of compliance under that order.

(d) *Approved Section 120 program* means a State program to assess and collect Section 120 penalties that has been approved by the Administrator.

(e) *Computer program* means the computer program used to calculate noncompliance penalties under section 120 of the Clean Air Act. This computer program appears as appendix C to these regulations.

(f) *Control* (including the terms *controlling*, *controlled by*, and *under common control with*) means the power to direct